

5-407. SAME — PUBLIC WAY.

(A) AGREEMENT WITH OWNER

A RAILROAD COMPANY AND THE MUNICIPAL CORPORATION, PUBLIC OFFICER, OR PUBLIC AUTHORITY THAT OWNS OR HAS CONTROL OF ANY ROAD, STREET, ALLEY, OR OTHER PUBLIC WAY OR GROUND NECESSARY TO LOCATE ANY PART OF THE RAILROAD MAY AGREE ON THE MANNER, TERMS, AND CONDITIONS ALLOWING THE RAILROAD COMPANY TO USE OR OCCUPY THE ROAD, STREET, ALLEY, OR OTHER PUBLIC WAY OR GROUND.

(B) ACTION FOR CONDEMNATION.

IF THE PARTIES ARE UNABLE TO AGREE AND THE RAILROAD COMPANY NEEDS TO USE OR OCCUPY THE ROAD, STREET, ALLEY, OR OTHER PUBLIC WAY OR GROUND, THE RAILROAD COMPANY MAY ACQUIRE THE PROPERTY BY CONDEMNATION IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE.

(C) RESPONSIBILITY FOR DAMAGE TO PRIVATE PROPERTY.

(1) A RAILROAD COMPANY THAT LAYS TRACK ON ANY PUBLIC STREET, ROAD, ALLEY, OR OTHER PUBLIC WAY OR GROUND IS RESPONSIBLE FOR ANY DAMAGE DONE BY THE LOCATION OF THE TRACK TO PRIVATE PROPERTY ON OR NEAR THE PUBLIC WAY OR GROUND.

(2) THE OWNER OF THE PRIVATE PROPERTY SHALL BRING A CIVIL ACTION FOR DAMAGES UNDER THIS SUBSECTION WITHIN 2 YEARS AFTER THE COMPLETION OF THE TRACK.

(D) CONSENT REQUIRED IN BALTIMORE CITY.

A RAILROAD COMPANY MAY NOT PASS THROUGH BALTIMORE CITY WITHOUT THE CONSENT OF THE MAYOR AND CITY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 199.

In subsection (a) of this section, the reference to a municipal or "other" corporation owning a public road is deleted as surplusage.

In subsection (b) of this section, the reference to "the railroad company need[ing]" to use or occupy the road is substituted for the former phrase, "it is necessary, in the judgment of the directors of the railroad company", for clarity and brevity.

Also in subsection (b) of this section, the phrase "may acquire the property by condemnation" is substituted for the former phrase "may condemn so much of the same" for consistency with terminology used elsewhere in this subtitle.

In subsection (c)(2) of this section, the former phrase "before the proper court" is deleted as unnecessary.